

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CATHRYN A. McALEY,

Plaintiff,

Case No. 08-CV-14504

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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ORDER ADOPTING REPORT AND RECOMMENDATION
AND
DENYING THE COMMISSIONER'S MOTION FOR SUMMARY JUDGMENT
AND
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT
AND
REMANDING MATTER FOR FURTHER ADMINISTRATIVE PROCEEDING

I.

This is a social security case. Plaintiff Cathryn A. McAley appeals from the final determination of the Commissioner of Social Security (Commissioner) that she is not disabled and therefore not entitled to disability insurance benefits. The matter was referred to a magistrate judge for all pretrial proceedings. Plaintiff and the Commissioner filed cross motions for summary judgment. The magistrate judge issued a report and recommendation (MJRR) recommending that (1) the Commissioner's motion for summary judgment be denied, (2) plaintiff's motion for summary judgment be denied and (3) the matter be remanded for further administrative proceedings.

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the reviewed the MJRR and agrees with the magistrate judge.

Accordingly, the MJRR is ADOPTED as the findings and conclusions of the Court. The Commissioner's motion for summary judgment is DENIED. Plaintiff's motion for summary judgment is DENIED. This matter is REMANDED for further administrative proceedings consistent with the MJRR.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: March 22, 2010

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, March 22, 2010, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160